

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 11260 of 2005
With
SPECIAL CIVIL APPLICATION No. 11261 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may
be allowed to see the judgment ?

2 To be referred to the Reporter or not
?

3 Whether their Lordships wish to see
the fair copy of the judgment ?

Whether this case involves a
substantial question of law as to the
4 interpretation of the constitution of
India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the
civil judge ?

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AHMEDABAD EDUCATION SOCIETY - Petitioner(s)

Versus

**JUSTICE RJ SHAH (RETD) FEE COMMITTEE (HIGHER AND
TECHNIC- - Respondent(s)**

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Appearance :

MR DC DAVE for Petitioner(s) : 1,

MR AD OZA WITH MR DIPAK R DAVE for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 11/09/2006

ORAL JUDGMENT

1. In these petitions, the petitioners have challenged respective impugned orders by which the respondent Committee has fixed the fee structure for students undertaking courses in PTC colleges run by the petitioners. The petitioner in Special Civil Application No.11260/05 has challenged the order of the Committee which was passed on 17/1/2005 and in case of the petitioner in Special Civil Application No.11261/05 the impugned order is dated 7/4/2005.

2. Learned advocates appearing for the parties, pointed out that under similar circumstances, learned Single Judge of this Court by judgment dated 10th February, 2006 passed in Special Civil Application No.109/05 and connected matters, was pleased to set aside the order of the Committee primarily on the ground that the same does not assign any reason and that uniform order has been passed in various institutions without taking into account special facts. In para 16 of the said decision learned Single Judge was pleased to make following

observations:

"16. For the reasons stated hereinabove, the petitions succeeds in part. The impugned decision of the respondent Committee dated 14/12/2004 is hereby quashed and set aside for the reasons as aforesaid and the matter is remanded to the respondent Committee for passing appropriate reasoned and speaking order in accordance with law and on merits, after considering the submissions that may be made by the respective petitioners through their representative, if any, more particularly by one of the office bearers of the petitioner Association with regard to their individual cases, and take appropriate decision within a period of six weeks from the date of receipt of representation from the petitioners if any, to be submitted on or before 1/3/2006 and to remain present on 1/3/2006 at the first instance. The respondent Committee shall communicate their decision to the individual institutions and

till then the present interim arrangement is directed to be continued and the parties shall abide by the decisions that may be taken by the respondent Committee on remand, of course, subject to challenge before the higher forum, in accordance with law and on merits."

3. Since in the present case also material facts are similar these petitions are also disposed of in the same manner.

4. In the result, petitions are partially allowed. Impugned orders dated 17/1/2005 and 7/4/2005 respectively are quashed. Respondent Committee shall take a fresh decision regarding the fee structure of the petitioners within a period of eight weeks from the date of receipt of a copy of this order. Learned advocate Shri D.C.Dave for the petitioners submitted that petitioners have so far collected fees from the students only at the rate specified by the Committee in the impugned orders. They have however, taken necessary undertaking from the students to pay higher

fees in case the order is modified later on. This arrangement shall continue till fresh order is passed by the Committee. To put it differently, the petitioners shall charge fees not higher than what the Committee has provided in the orders which are quashed. This arrangement will be subject to final order that the Committee may pass and subject to further order in this regard. It would be open for the petitioners to obtain necessary undertaking from the students accordingly.

5. With these observations and directions, the petitions are disposed of. Rule is made absolute to the above extent. No costs.

(Akil Kureshi, J.)

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